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SUBJECT: REPORT OF AD HOC GROUP ON FLAGS OF CONVENIENCE

REF: DAF/MTC/74.32

GENEVA FOR JOHN STEINMETZ

1. REF INVITED DELEGATES TO PROVIDE COMMENTS ON VARIOUS STUDIES AND TO MAKE PROPOSALS FOR POSSIBLE FUTURE WORK OF THE AD HOC GROUP ON FLAGS OF CONVENIENCE. THE UNITED STATES WISHES TO MAKE A NUMBER OF GENERAL COMMENTS AND OBSERVATIONS RESPECTING THE REPORTS AS WELL AS A SUGGESTION REGARDING THE FUTURE WORK PROGRAM OF THE AD HOC GROUP.

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2. DAF/MTC/73.49 SUBSTANTIATES THE FACT THAT FLAGS OF

CONVENIENCE (FOC) OPERATIONS ACCOUNT FOR SIZEABLE PORTION OF MOST OECD MEMBERS BULK FOREIGN SEABORNE TRADE IN TERMS OF TONNAGE IF NOT IN VALUE. DAF/MTC/73.42 CONFIRMS THAT THE CONSTRUCTION OF VESSELS DESTINED TO FLY FOC CONTRIBUTES MARKEDLY TO THE SHIPBUILDING INDUSTRIES OF A MAJORITY OF OECD NATIONS. BOTH THESE REPORTS ARE OF GENERAL INTEREST AND SERVE TO CONFIRM TRENDS WHICH WERE ALREADY FAIRLY APPARENT.

3. THREE OTHER REPORTS WERE OF SPECIAL INTEREST. THE PRELIMINARY REPORT OF NORWAY INDICATES THAT MANNING, WAGES, AND SOCIAL BENEFITS FOR US-OWNED LIBERIA AND PANAMA BULK AND TANKER OPERATIONS ARE NOT SUBSTANTIALLY LOWER THAN THE HIGH COST OECD NATIONS AND EQUAL TO OR ABOVE THOSE OF OTHER OECD COUNTRIES. ANNEX II, DAF/MTC/73.74 IS REVEALING IN THAT INSURANCE PREMIUMS ARE BASED ON A NUMBER OF CONSIDERATIONS, THE MOST IMPORTANT BEING THE RECORD OF THE OPERATOR, AND THE FLAG IS OF LITTLE IMPORT. DAF/MTC/73.38 NOTES THAT THE BENEFITS TO BE ACHIEVED BY FOC OPERATORS FROM THE NON-OBSERVANCE OF INTERNATIONAL POLLUTION ABATEMENT REQUIREMENTS, EITHER IN EFFECT OR YET TO BE IMPLEMENTED, ARE IN NO WAY SIGNIFICANTLY DIFFERENT FROM THOSE WHICH MAY BE ENJOYED BY SHIPS OF OTHER FLAGS.

4. AT THE SAME TIME, ONE REPORT, ANNEX I, DAF/MTC/73.44, DOCUMENTS THE PREVIOUSLY EXPRESSED CONCERN OF THE FRG AND THE NETHERLANDS OVER THE INCREASING TENDENCY OF THEIR CITIZENS TO REGISTER NEWLY ACQUIRED OR OLD TONNAGE UNDER FOC. IN THIS REGARD, IT IS RECALLED THAT EARLIER THE NETHERLANDS REPORTED IT HAD NO MEASURES TO COUNTERACT SUCH REGISTRATIONS, AND THE FRG STATED ITS NATIONAL FLAG LAW PRECLUDED FOC ACTIVITIES BY ITS CITIZENS, BUT THAT THE LAW COULD BE CIRCUMVENTED THROUGH THE ESTABLISHMENT OF FOREIGN SUBSIDIARIES. BOTH GOVERNMENTS, HOWEVER, LIKE THOSE OF MOST OTHER TRADITIONAL MARITIME NATIONS, HAVE FOLLOWED A POLICY OF SPECIAL TAX TREATMENT AND OTHER BENEFITS IN ORDER TO SUPPORT AND MAINTAIN THEIR MERCHANT MARINE CAPABILITIES. NEVERTHELESS, THESE TWO MARITIME NATIONS ARE EXPERIENCING A LOSS OF SHIPPING TO FOC DESPITE GOVERNMENT-SPONSORED ECONOMIC INDUCEMENTS DESIGNED LIMITED OFFICIAL USE

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TO ACCOMPLISH THE SAME RESULTS (I.E. RETENTION OF SHIPPING UNDER OR ATTRACTION THEREOF TO ITS FLAG) AS THAT ACHIEVED BY FOC COUNTRIES WHOSE ONLY MAJOR ECONOMIC ATTRACTION IS, IF WE CONSIDER THE CONCLUSIONS OF THE THREE FOREGOING REPORTS, THE PRACTICAL ABSENCE OF ANY TAXES ON SHIPPING INCOME. ONE CAN ONLY SUSPECT, THEREFORE, THAT IN THE ABSENCE OF NATIONAL LAWS PROHIBITING SUCH, THE GROWING REGISTRATION UNDER FOC IS THE DIRECT RESULT OF THE FACT

THAT THE ECONOMIC BENEFITS PRESENTLY AVAILABLE ARE NO LONGER COMPENSATORY OR SUFFICIENT IN CERTAIN INSTANCES TO OFFSET AND UNDERCUT THIS PARTICULAR ECONOMIC ATTRACTION OF FOC. WHETHER ONE CAN ARGUE CONVINCINGLY THAT THIS AMOUNTS TO UNFAIR COMPETITION IS QUESTIONABLE IN LIGHT OF THE VARIOUS EFFORTS OF OECD MEMBERS TO MAINTAIN THEIR OWN SHIPPING.

5. SEVERAL COMMENTS ARE GERMANE REGARDING DAF/MTC/74.27.

PARA. 11 MAKES NO ATTEMPT TO QUANTIFY SOCIAL COSTS AND THUS IT SEEMS INAPPROPRIATE TO SPECIFY THE U.S.-FLAG VESSEL COSTS WERE 2 1/1 TIMES GREATER THAN THE NEXT EXPENSIVE COUNTRY'S COSTS. A CORRECT DESCRIPTION MIGHT CITE THAT U.S. COSTS WERE 2 1/2 TIMES GREATER WHEN SOCIAL COSTS WERE EXCLUDED FROM THE CALCULATION. IN PARAGRAPH 25, FROM THE U.S. STANDPOINT, THE AVOIDANCE OF CORPORATION TAXES (52 OF NET PROFITS) MUST BE CONSIDERED A SIGNIFICANT FACTOR. IN PARAGRAPH 32, THE LOWER OPERATING COSTS AND TAX EXEMPTIONS APPLYING TO ALL FLAGS-OF-CONVENIENCE VESSELS PROVIDE THEM WITH A COMPETITIVE ADVANTAGE OVER U.S.-FLAG VESSELS.

6. IT IS NOTED THAT REPLIES FROM SEVERAL MAJOR OECD SHIPPING COUNTRIES AS TO BENEFICIAL OWNERSHIP OF FLAGS OF CONVENIENCE ARE OUTSTANDING. THEIR REPORTS SHOULD BE OF PARTICULAR INTEREST NOT ONLY FROM THE STANDPOINT OF CONFIRMING THIS TREND, BUT ALSO WITH REGARDS TO REVERSING IT SINCE ONE MAJOR SHIPPING COUNTRY WHOSE REPORT IS STILL TO BE CURCULATED HAS UNDERTAKEN A CONCERTED EFFORT TO ACHIEVE REPATRIATION OF ITS FOC SHIPPING BY MEANS OF ADDITIONAL TAX AND OTHER INDUCEMENTS.

7. THE REMAINING REPORTS ARE SIGNIFICANT FROM THE STAND-LIMITED OFFICIAL USE

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POINT OF POTENTIAL HARM TO THE MARITIME COMMUNITY AS A WHOLE WHICH MIGHT RESULT FROM INADEQUATE SAFETY AND OTHER STANDARDS AND THEIR INEFFECTIVE ENFORCEMENT. THE UNITED STATES BELIEVES THAT THIS IS AN AREA IN WHICH FURTHER WORK BY THE SECRETARIAT AND THE AD HOC GROUP IS PARTICULARLY WARRANTED CONSIDERING THE DISPARITIES BETWEEN THE LOST RATIOS BETWEEN OECD MEMBERS, FOC AND THE REST OF THE WORLD (DAF/MTC/73.53 AND DAF/MTC/73.55). IN THIS REGARD THE UNITED STATES IS OF THE OPINION THAT THE RESPONSE FROM THE IMCO SECRETARIAT (DAF/MTC/73.50) IS MOST REVEALING WITH REGARDS TO EXISTING SHORTCOMINGS OF PRESENT PRACTICES OF ASSESSING THE IMPLEMENTATION OF EXISTING CONVENTIONS AND ENFORCEMENT PROCEDURES. IT WOULD APPEAR THAT THE AD HOC GROUP COULD MAKE A MOST USEFUL CONTRIBUTION IN INVESTIGATING THESE PROBLEMS,

WHICH ARE BY NO MEANS ONLY CHARACTERISTIC OF FOC OPERATIONS, MORE EXTENSIVELY. THEREAFTER, DEPENDING ON THE RESULTS, THOUGHT MIGHT BE GIVEN TO WAYS AND MEANS OF IMPROVING PERFORMANCE IN THIS AREA. INGERSOLL

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